

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

COMMODITY FUTURES TRADING	)	CASE NO.1:04CV16
COMMISSION,	)	
Plaintiff,	)	JUDGE CHRISTOPHER A. BOYKO
	)	
Vs.	)	
	)	
ROSS ERSKINE, ET AL.,	)	<u>ORDER</u>
	)	
Defendants.	)	

**CHRISTOPHER A. BOYKO, J:**

This matter is before the Court on Plaintiff's Objections to Defendants' Filing of Supplemental Authority (ECF Dkt. # 87) and Plaintiff's Motion to Strike Defendants' Cross Motion for Summary Judgment contained in its Reply to Response to Motion for Summary Judgment (ECF Dkt. # 85). For the following reasons, the Court strikes Defendants' Supplemental Authority and *sua sponte* strikes Defendants' Cross Motion for Summary Judgment.

The Court notes that both Plaintiff's Motions to Strike were not captioned as motions. Plaintiff moved to strike Defendants' Supplemental Authority in the body of its Objections and moved to strike Defendants' Cross Motion for Summary Judgment in the body of its Reply.

Both Plaintiffs' filings are problematic in that the relief sought is hidden in the body of the text. This practice of hiding the relief in the body of the text of documents not labeled as "motions" is susceptible to confusion in terms of notice to opposing counsel and what relief the movant is seeking from the Court. The Court finds this practice of law is not in keeping with the spirit and intent of the Federal Rules of Civil Procedure and the United States District Court's local rules; and is especially troublesome when done by experienced counsel.

However, the Court finds that Defendants' Supplemental Authority provides no new authority and was filed without leave and is therefore, stricken. As Defendants' Cross Motion for Summary Judgment was filed after the dispositive motion cut off date and was filed without leave, the Court strikes those portions of Defendants' brief seeking summary judgment on the issue of fraud.

Therefore, the Court grants Plaintiff's Objection to Defendants' Supplemental Authority and Strikes said authority (ECF Dkt#86). The Court *sua sponte* strikes Defendants' Cross Motion for Summary Judgment as untimely filed.

IT IS SO ORDERED.

4/18/06  
Date

Christopher A. Boyko  
CHRISTOPHER A. BOYKO  
United States District Judge